

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Dock and Boathouse approval for the Janowitz Residence

DEPARTMENT: Planning and Development **DIVISION:** Development Review

AUTHORIZED BY: Donald S. Fisher **CONTACT:** Wendy J. Meyer ^{WJM} **EXT.** 7333

Agenda Date 8/22/06 Regular ☐ Consent ☐ Work Session ☐ Briefing ☐
Public Hearing – 1:30 ☒ Public Hearing – 7:00 ☐

MOTION/RECOMMENDATION:

Approve the construction of a dock and boathouse structure consisting of 1,196 square feet for the Janowitz Residence located at 3078 Kingfisher Point in Chuluota, on Lake Mills, in accordance with the permit issued by the St. John's River Water Management District and requirements pursuant to the Seminole County Land Development Code, Chapter 70.

District – 1 Commissioner Dallari

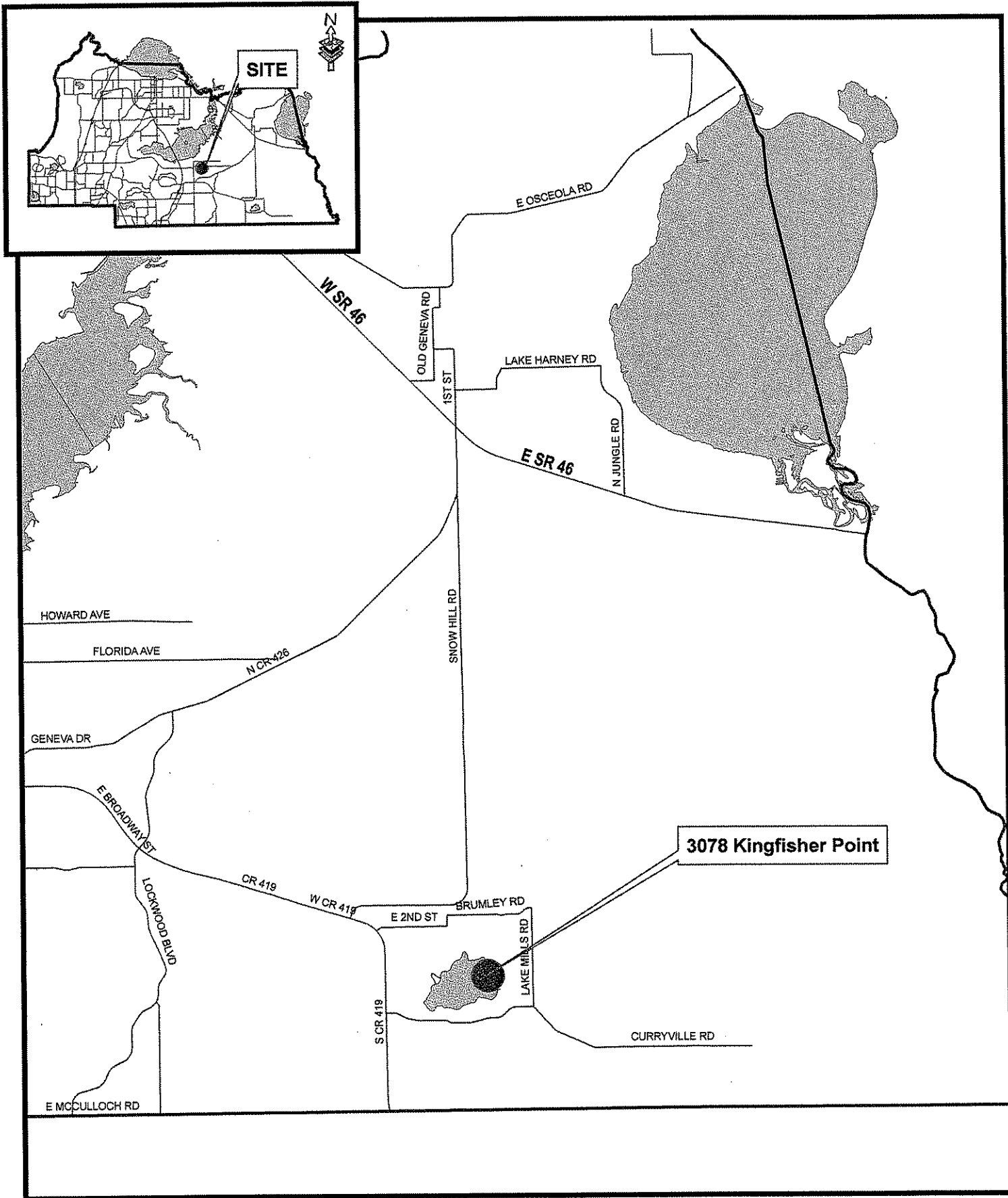
Wendy J. Meyer

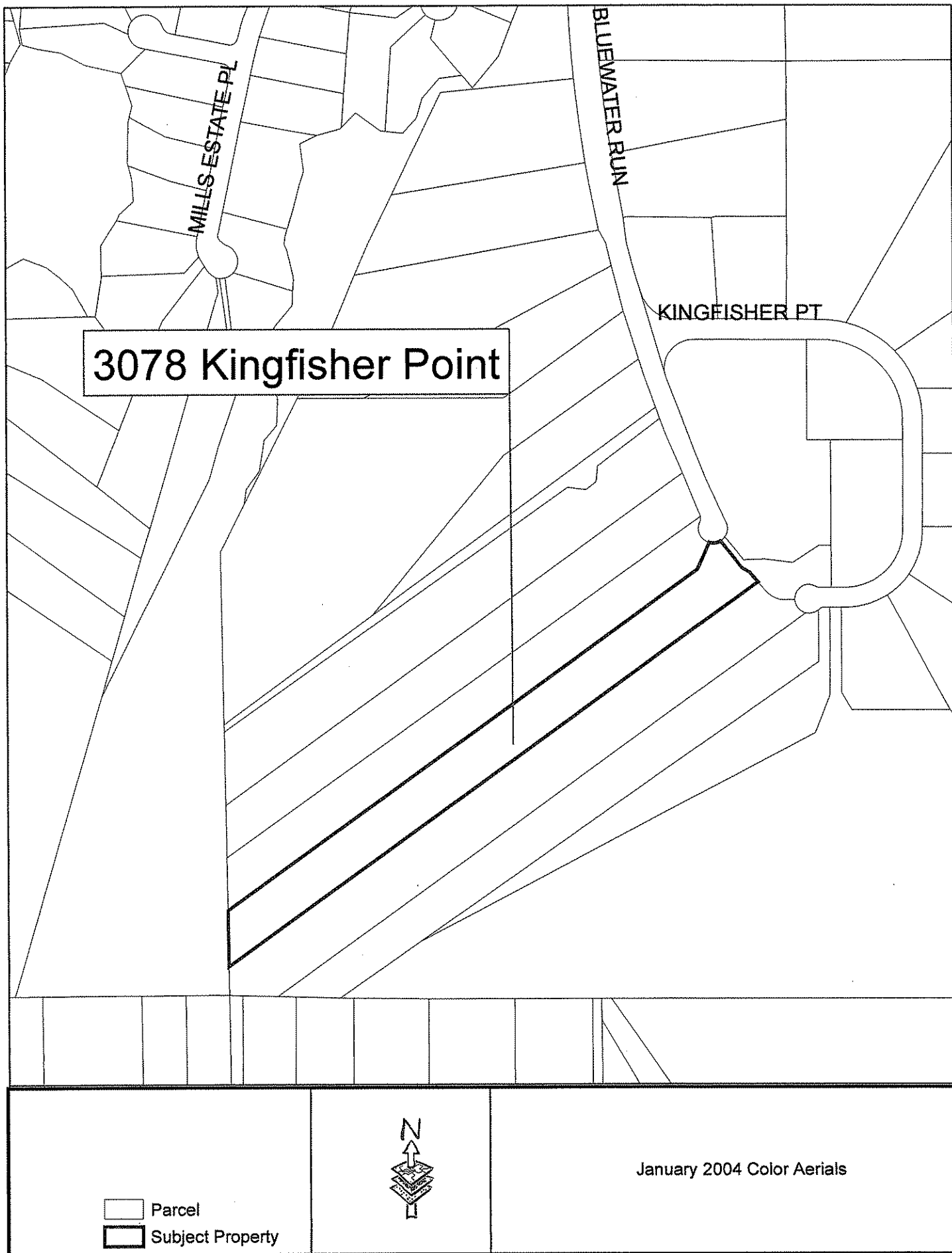
BACKGROUND:

The applicant, Albert Cichra Builders, Inc. (for Eric Janowitz, owner), is requesting approval for the construction of a 1,196 square foot dock at 3078 Kingfisher Point. Sections 70.4 and 70.5(b) (7) of the Seminole County Land Development Code require Board approval for boat docks exceeding 1,000 square feet. St. John River Water Management issued a permit for this structure on June 19, 2006.

Reviewed by: _____
Co Atty: KET
DFS: _____
Other: [Signature]
DCM: [Signature]
CM: [Signature]

File No. ph130pd01





3078 Kingfisher Point

MILLS ESTATE PL

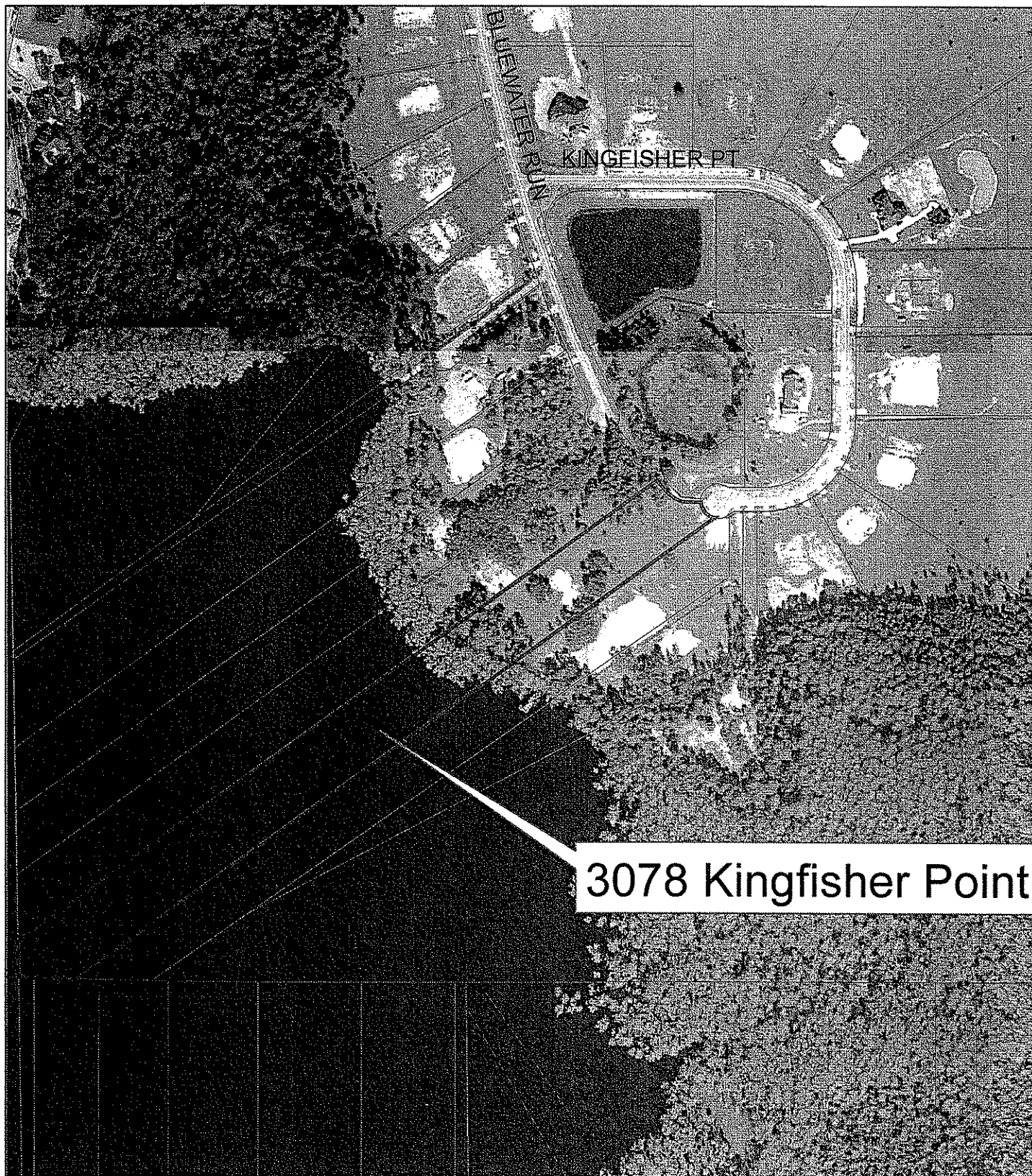
BLUEWATER RUN




KINGFISHER PT

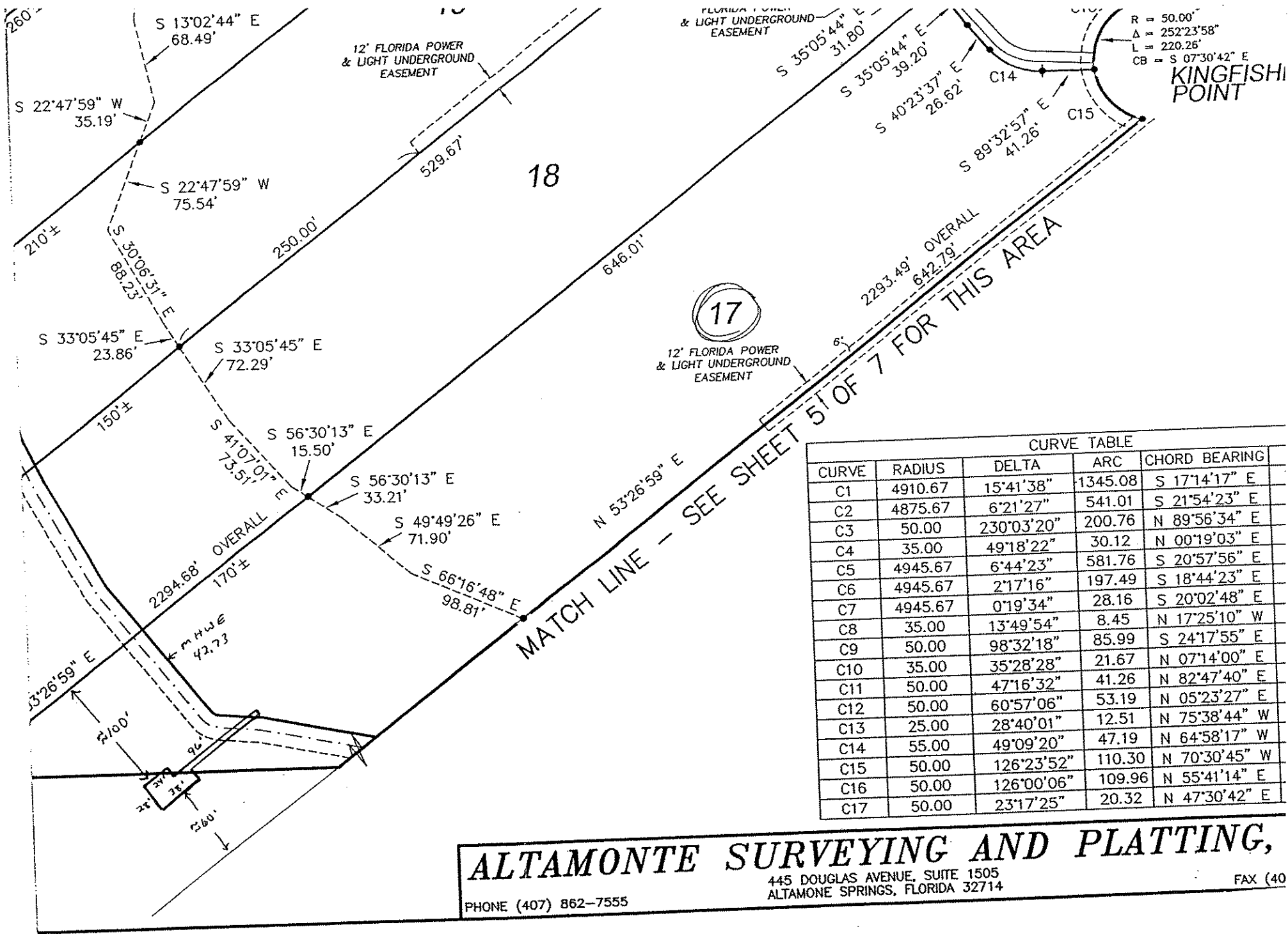
- Parcel
- Subject Property



January 2004 Color Aerials



<p> Parcel</p> <p> Subject Property</p>		<p>January 2004 Color Aerials</p>
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St. Johns River Water Management District

Kirby B. Green III, Executive Director • David W. Fisk, Assistant Executive Director

4049 Reid Street • P.O. Box 1429 • Palatka, FL 32178-1429 • (386) 329-4500
On the Internet at www.sjrwmd.com.

June 19, 2006

Eric Janowitz
3078 Kingfisher Pt
Oviedo, FL 32766

SUBJECT: Noticed General Permit 400-117-70942-7

Dear Sir/Madam:

The District has received your notice to use a noticed general permit. Based on the submitted information, the proposed activity qualifies for a Noticed General Environmental Resource Permit pursuant to section 40C-400.427, Florida Administrative Code, so long as it is constructed and operated in accordance with that general permit and the general conditions set forth in section 40C-400.215, Florida Administrative Code (attached).

Please be advised that the District has not published a notice in the newspaper advising the public that it is issuing a permit for this proposed project. Publication, using the District form, notifies members of the public (third parties) of their rights to challenge the issuance of the general permit. If proper notice is given by publication, third parties have a 21-day time limit on the time they have to file a petition opposing the issuance of the permit. If you do not publish, a party's right to challenge the issuance of the general permit extends for an indefinite period of time. If you wish to have certainty that the period for filing such a challenge is closed, then you may publish, at your own expense, such a notice in a newspaper of general circulation. A copy of the form of the notice and a list of newspapers of general circulation is attached for your use. If you do publish a notice, please submit a copy of the published notice to the District for our records.

A copy of your application was transmitted to the U.S. Army Corps of Engineers for review. This authorization to use a noticed general environmental resource permit does not obviate the need for obtaining all necessary permits or approval from other agencies.

Sincerely,

Gloria Lewis, Director
Permit Data Services Division

Enclosures: Notice of Rights
List of Newspapers for Publication

cc: District Permit File

GOVERNING BOARD

David G. Graham, CHAIRMAN JACKSONVILLE	John G. Sawinski, VICE CHAIRMAN ORLANDO	Ann T. Moore, SECRETARY BUNELL	Duane L. Osterbrook, TREASURER JACKSONVILLE
R. Clay Albright DEALA	Sugar N. Hughes PONTEVEDRA	William W. Kerr NE. BOURNE BEACH	Omelras D. Long APOPKA
			W. Leonard Wood PERTHMANA BEACH

MISSISSIPPI BOULDER

BRIDGE ON R2. UNIT

Agent: Ivy Environmental LLC
P O Box 482
Windermere, FL 34786

**ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
NOTICED GENERAL ENVIRONMENTAL RESOURCE PERMIT**

PERMIT NO. 400-117-70942-7**DATE ISSUED: June 19, 2006****PROJECT NAME: Janowitz****A PERMIT AUTHORIZING:**

Use of the Noticed General Permit for Certain Piers and Associated Structures (40C-400.427, F.A.C) for the construction of a 1,224 square foot boat dock to serve the single-family residence at 3078 Kingfisher Point within Lot 17 of Mills Cove Subdivision (Permit #4-117-70942-4, June 21, 2005), Chuluota, Florida 32766. The dock will be constructed in accordance with the plans received on May 25, 2006 and June 5, 2006.

LOCATION:

Section(s): 22 Township(s): 21S Range(s): 32E

Seminole County

Eric Janowitz
3078 Kingfisher Pt
Oviedo, FL 32766

The District received your notice to use a Noticed General Environmental Resource Permit pursuant to Chapter 40C-400, F.A.C. on March 22, 2006.

Based on the forms, design plans, and other documents submitted with your notice, it appears that the project meets the requirements for a Noticed General Environmental Resource Permit. Any activities performed under a Noticed General Environmental Resource Permit are subject to the general conditions as specified in Section 40C-400.215, F.A.C. (attached). Any deviations from these conditions may subject you to enforcement action and possible penalties.

Please be advised that the Noticed General Environmental Resource Permit expires 5 years from the date on which the notice of intent to use a Noticed General Environmental Resource Permit was received by the District. If you wish to continue this noticed general permit beyond the expiration date, you must notify the District at least 30 days prior to the permit expiration date.

A copy of your notice also has been sent to the U.S. Army Corps of Engineers (USACOE) for review. The USACOE may require a separate permit. Failure to obtain this authorization prior to construction could subject you to enforcement action and possible penalties.

AUTHORIZED BY: St. Johns River Water Management District
Department of Resource Management

By: 

(Service Center Director - Altamonte Springs)
David Dewey

"EXHIBIT A"
CONDITIONS FOR ISSUANCE OF PERMIT NUMBER 400-117-70942-7
ERIC JANOWITZ
DATED JUNE 19, 2006

1. The terms, conditions, requirements, limitations, and restrictions set forth in this section are general permit conditions and are binding upon the permittee for all noticed general permits in this chapter. These conditions are enforceable under part IV of chapter 373, F.S.
2. The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit. A violation of the permit is a violation of part IV of chapter 373, F.S., and may result in suspension or revocation of the permittee's right to conduct such activity under the general permit. The District may also begin legal proceedings seeking penalties or other remedies as provided by law for any violation of these conditions.
3. This general permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any construction, alteration, operation, maintenance, removal or abandonment authorized by this permit.
4. This general permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the general permit and this chapter.
5. This general permit does not relieve the permittee from liability and penalties when the permitted activity causes harm or injury to: human health or welfare; animal, plant or aquatic life; or property. It does not allow the permittee to cause pollution in contravention of Florida Statutes and District rules.
6. The authorization to conduct activities pursuant to a general permit may be modified, suspended or revoked in accordance with chapter 120, and section 373.429, F.S.
7. Construction or extension of the boat house, boat shelter, boat lift, gazebo, or terminal platforms, shall not occur over submerged grassbeds, coral communities, or wetlands. In addition, the boat mooring location shall not be over submerged grassbeds, coral communities, or wetlands. However, the access walkway portion of the pier may traverse these resources provided it is elevated a minimum of 5 feet above mean high water or ordinary high water, contains handrails that are maintained in such a manner as to prevent use of the access walkways for boat mooring or access, and does not exceed a width of 6 feet, or a width of 4 feet in Aquatic Preserves.
8. There shall be no wet bars or living quarters over wetlands or other surface waters or on the pier, and no structure authorized by this general permit shall be enclosed by walls or doors.
9. The structure and its use shall not significantly impede navigability in the water body.
10. There shall be no dredging or filling associated with construction of the structures authorized herein, other than that required for installation of the actual pilings for the pier, boat lift, boat shelter, gazebo, or terminal platform.
11. There shall be no fish cleaning facilities, boat repair facilities or equipment, or fueling facilities on the structures authorized by this general permit. In addition, no overboard discharges of trash, human or animal waste, or fuel shall occur from any structures

authorized by this general permit.

12. This general permit shall not authorize the construction of more than one pier per parcel of land or individual lot. For the purposes of this general permit, multi-family living complexes shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property.

Notice Of Rights

1. A person whose substantial interests are or may be determined has the right to request an administrative hearing by filing a written petition with the St. Johns River Water Management District (District), or may choose to pursue mediation as an alternative remedy under Sections 120.569 and 120.573, Florida Statutes, before the deadline for filing a petition. Choosing mediation will not adversely affect the rights to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth in Sections 120.569 and 120.57, Florida Statutes, and Rules 28-106.111 and 28-106.401-.405, Florida Administrative Code. Pursuant to Chapter 28-106 and Rule 40C-1.1007, Florida Administrative Code, the petition must be filed at the office of the District Clerk at District Headquarters, P. O. Box 1429, Palatka, Florida 32178-1429 (4049 Reid St., Palatka, FL 32177) within twenty-six (26) days of the District depositing notice of District decision in the mail (for those persons to whom the District mails actual notice) or within twenty-one (21) days of newspaper publication of the notice of District decision (for those persons to whom the District does not mail actual notice). A petition must comply with Chapter 28-106, Florida Administrative Code.
2. If the Governing Board takes action which substantially differs from the notice of District decision, a person whose substantial interests are or may be determined has the right to request an administrative hearing or may choose to pursue mediation as an alternative remedy as described above. Pursuant to District Rule 40C-1.1007, Florida Administrative Code, the petition must be filed at the office of the District Clerk at the address described above, within twenty-six (26) days of the District depositing notice of final District decision in the mail (for those persons to whom the District mails actual notice) or within twenty-one (21) days of newspaper publication of the notice of its final agency action (for those persons to whom the District does not mail actual notice). Such a petition must comply with Rule Chapter 28-106, Florida Administrative Code.
3. A substantially interested person has the right to a formal administrative hearing pursuant to Section 120.569 and 120.57(1), Florida Statutes, where there is a dispute between the District and the party regarding an issue of material fact. A petition for formal must comply with the requirements set forth in Rule 28-106.201, Florida Administrative Code.
4. A substantially interested person has the right to an informal hearing pursuant to Sections 120.569 and 120.57(2), Florida Statutes, where no material facts are in dispute. A petition for an informal hearing must comply with the requirements set forth in Rule 28-106.301, Florida Administrative Code.
5. A petition for an administrative hearing is deemed filed upon delivery of the petition to the District Clerk at the District headquarters in Palatka, Florida.
6. Failure to file a petition for an administrative hearing, within the requisite time frame shall constitute a waiver of the right to an administrative hearing (Section 28-106.111, Florida Administrative Code).
7. The right to an administrative hearing and the relevant procedures to be followed are governed by Chapter 120, Florida Statutes, and Chapter 28-106, Florida Administrative Code and Section 40C-1.1007, Florida Administrative Code.

Notice Of Rights

8. An applicant with a legal or equitable interest in real property who believes that a District permitting action is unreasonable or will unfairly burden the use of his property, has the right to, within 30 days of receipt of notice of the District's written decision regarding a permit application, apply for a special master proceeding under Section 70.51, Florida Statutes, by filing a written request for relief at the office of the District Clerk located at District headquarters, P. O. Box 1429, Palatka, FL 32178-1429 (4049 Reid St., Palatka, Florida 32177). A request for relief must contain the information listed in Subsection 70.51(6), Florida Statutes.
9. A timely filed request for relief under Section 70.51, Florida Statutes, tolls the time to request an administrative hearing under paragraph no. 1 or 2 above (Paragraph 70.51(10)(b), Florida Statutes). However, the filing of a request for an administrative hearing under paragraph no. 1 or 2 above waives the right to a special master proceeding (Subsection 70.51(10)(b), Florida Statutes).
10. Failure to file a request for relief within the requisite time frame shall constitute a waiver of the right to a special master proceeding (Subsection 70.51(3), Florida Statutes).
11. Any substantially affected person who claims that final action of the District constitutes an unconstitutional taking of property without just compensation may seek review of the action in circuit court pursuant to Section 373.617, Florida Statutes, and the Florida Rules of Civil Procedures, by filing an action in circuit court within 90 days of the rendering of the final District action, (Section 373.617, Florida Statutes).
12. Pursuant to Section 120.68, Florida Statutes, a person who is adversely affected by final District action may seek review of the action in the District Court of Appeal by filing a notice of appeal pursuant to the Florida Rules of Appellate Procedure within 30 days of the rendering of the final District action.
13. A party to the proceeding before the District who claims that a District order is inconsistent with the provisions and purposes of Chapter 373, Florida Statutes, may seek review of the order pursuant to Section 373.114, Florida Statutes, by the Florida Land and Water Adjudicatory Commission, by filing a request for review with the Commission and serving a copy on the Department of Environmental Protection and any person named in the order within 20 days of adoption of a rule or the rendering of the District order.
14. For appeals to the District Court of Appeal, a District action is considered rendered after it is signed on behalf of the District, and is filed by the District Clerk.
15. Failure to observe the relevant time frames for filing a petition for judicial review described in paragraphs #11 and #12, or for Commission review as described in paragraph #13, will result in waiver of that right to review.

Certificate of Service



St. Johns River

Water Management District

Kirby B. Green III, Executive Director • David W. Fisk, Assistant Executive Director
David Dewey, Allamonte Springs Service Center Director

June 19, 2006

975 Keller Road • Allamonte Springs, FL 32714-1618 • (407) 659-4800
On the Internet at www.sjrwmd.com.

Re: Letter of Consent
Boathouse and dock
Authorization # 400-117-70942-7
(Please reference this permit number on all correspondence)

Dear Mr. Eric Janowitz:

Thank you for notifying the St. Johns River Water Management District of your intent to construct a 1,224 square foot boat dock on Lake Mills, as shown on the plans received by the District on May 25, 2006 and June 6, 2006.

We have reviewed the information you provided and determined that the project qualifies for a letter of consent to use state-owned submerged lands. The District bases this determination upon the fact that the total project preempts no more than 10 square feet of submerged lands for every linear foot of shoreline you own.

Providing your facility is consistent with the above, please consider this the authority sought under Section 253.77, Florida Statutes, and Chapter 18-21, Florida Administrative Code, to pursue this project.

Prior to commencement of construction and/or activities authorized herein, you must obtain the U.S. Army Corps of Engineers (ACOE) permit if required by the ACOE. Any modification to the construction and/or activities authorized herein that may be required by the ACOE shall require reconsideration by and the prior written approval of the St. Johns River Water Management District prior to commencement of construction and/or any activities on sovereignty, submerged lands.

This letter of consent in no way waives the authority and/or jurisdiction of any government entity, nor does it disclaim any title interest the state may have in the project site. Please check with your local government for specific requirements. Where local governments have standards, the more stringent standards shall apply. This letter does not constitute authority to proceed with your project under Chapter 373, F.S.

GOVERNING BOARD

Orestias D. Long, CHAIRMAN APOPKA	David G. Graham, VICE CHAIRMAN JACKSONVILLE	R. Clay Albright, SECRETARY OCALA	Duane Ottenstrofer, TREASURER JACKSONVILLE
W. Leonard Wood FERNANDINA BEACH	John G. Sawinski ORLANDO	William Kerr MELBOURNE BEACH	Ann T. Moore DUNNELL
			Susan N. Hughes PONTE VEDRA

Printed Stockings


Jun 28 06 08:22

Janowitz
June 19, 2006
Page 2

Please retain this letter, as it constitutes consent to use sovereign submerged lands by the St. Johns River Water Management District. Please be aware that you are bound to the conditions set forth in the attached "General Consent Conditions". Your boathouse and dock may be inspected by authorized state personnel in the future to insure compliance with appropriate statutes and administrative codes. If your boathouse and dock are not in compliance, you may be subject to penalties under Chapter 18-14, F.A.C.

If you have questions, please contact me at 407-659-4800.

Sincerely,


David A. Dewey, Director
Altamonte Springs Service Center
Department of Water Resources

Enclosures: General Consent Conditions
Notice of Rights

cc: PDS-COU; Margie Cook, Jennifer Cope, Richard Lee

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
SUBMERGED LANDS AND ENVIRONMENTAL RESOURCES PROGRAM**

GENERAL CONDITIONS FOR AUTHORIZATIONS

Project No: 400-117-70942-7

Chapter 18-21.004(7), F.A.C., provides that all authorizations granted by rule or in writing under Rule 18-21.005, F.A.C., except those for aquaculture activities and geophysical testing, shall be subject to the general conditions as set forth in paragraphs (a) through (i) below. The general conditions shall be part of all authorizations under this chapter, shall be binding upon the grantee, and shall be enforceable under Chapter 253 or Chapter 258, Part II, F.S.

Chapter 18-21.004(7), F.A.C., General Conditions for Authorizations:

- (a) Authorizations are valid only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use shall constitute a violation. Violation of the authorization shall result in suspension or revocation of the grantee's use of the sovereignty submerged land unless cured to the satisfaction of the Board.
- (b) Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.
- (c) Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in Sections 253.04 and 258.46, F.S., or Chapter 18-14, F.A.C.
- (d) Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.
- (e) Construction, use, or operation of the structure or activity shall not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.
- (f) Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision.
- (g) Structures or activities shall not create a navigational hazard.
- (h) Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of Rule 18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident, or fire.
- (i) Structures or activities shall be constructed, operated, and maintained solely for water dependent purposes, or for non-water dependent activities authorized under paragraph 18-21.004(1)(f), F.A.C., or any other applicable law.

[NOTE: These conditions were adopted in rule March 8, 2004, and replace the previous General Consent Conditions.]

(3/08/2004)

Notice Of Rights

1. An applicant with a legal or equitable interest in real property who believes that a District permitting action is unreasonable or will unfairly burden the use of his property, has the right to, within 14 days of receipt of notice of the District's written decision regarding a permit application, apply for a special master proceeding under Section 70.51, Florida Statutes, by filing a written request for relief at the office of the District Clerk located at District headquarters, P. O. Box 1429, Palatka, FL 32178-1429 (4049 Reid St., Palatka, Florida 32177). A request for relief must contain the information listed in Subsection 70.51(6), Florida Statutes.
2. A timely filed request for relief under Section 70.51, Florida Statutes, tolls the time to request an administrative hearing under paragraph no. 1 or 2 above (Paragraph 70.51(10)(b), Florida Statutes). However, the filing of a request for an administrative hearing under paragraph no. 1 or 2 above waives the right to a special master proceeding (Subsection 70.51(10)(b), Florida Statutes).
3. Failure to file a request for relief within the requisite time frame shall constitute a waiver of the right to a special master proceeding (Subsection 70.51(3), Florida Statutes).
4. Any substantially affected person who claims that final action of the District constitutes an unconstitutional taking of property without just compensation may seek review of the action in circuit court pursuant to Section 373.617, Florida Statutes, and the Florida Rules of Civil Procedures, by filing an action in circuit court within 90 days of the rendering of the final District action, (Section 373.617, Florida Statutes).
5. Pursuant to Section 120.68, Florida Statutes, a person who is adversely affected by final District action may seek review of the action in the District Court of Appeal by filing a notice of appeal pursuant to the Florida Rules of Appellate Procedure within 30 days of the rendering of the final District action.
6. A party to the proceeding before the District who claims that a District order is inconsistent with the provisions and purposes of Chapter 373, Florida Statutes, may seek review of the order pursuant to Section 373.114, Florida Statutes, by the Florida Land and Water Adjudicatory Commission, by filing a request for review with the Commission and serving a copy on the Department of Environmental Protection and any person named in the order within 20 days of adoption of a rule or the rendering of the District order.
7. For appeals to the District Court of Appeal, a District action is considered rendered after it is signed on behalf of the District, and is filed by the District Clerk.
8. Failure to observe the relevant time frames for filing a petition for judicial review described in paragraphs #11 and #12, or for Commission review as described in paragraph #13, will result in waiver of that right to review.

Notice Of Rights

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing Notice of Rights has been sent
by U.S. Mail to:

Eric Janowitz
3078 Kingfisher Pt.
Chuluota, FL 32766

At 4:00 p.m. this 19th day of June 2006.

Division of Permit Data Services
Gloria Lewis, Director

St. Johns River Water Management District
Post Office Box 1429
Palatka, FL 32178-1429
(386) 329-4152

Authorization Number: 18-117-70942-7

